

**RESOLUTION NO. 12-019**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT AMENDMENT NO. UA11-0012, GOOD SHEPHERD COMMUNITY CHURCH, A REQUEST FOR INTERIOR MODIFICATION TO AN EXISTING CHURCH AND TO PERMIT SHARED PARKING FOR A CHURCH FACILITY LOCATED AT 467 SINCLAIR FRONTAGE ROAD.**

**WHEREAS**, on December 14, 2011, Pastor Virgil Fernando submitted an application to allow for interior modifications to the existing floor that would allow for the reprogramming of the sanctuary space and to permit shared parking located at 467 Sinclair Frontage Road. (APN 86-44-001, 003, and 004). The property is located in the Heavy Industrial Zoning District (M2-S); and

**WHEREAS**, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is categorically exempt; and

**WHEREAS**, on April 11, 2012, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

**NOW THEREFORE**, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** The project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) and Class 3, Section 15303 (New Construction) in that the project.

**Section 3:** The project is consistent with the General Plan in that it encourages the development of adequate civic, recreational and cultural centers in locations for the best service to the community given its location to serve both the local and regional community.

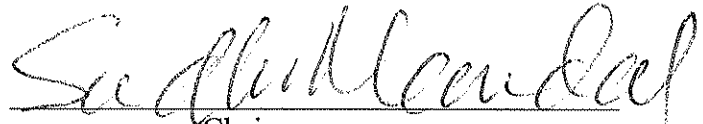
**Section 4:** The project conforms to the Milpitas zoning ordinance in that the proposed modifications to a legal nonconforming use are permitted with the approval of a conditional use permit. The project would consist of the re-programming of existing space. The project would not add square footage to the legal nonconformity or expand or extend the limits of the church. The project does not propose any exterior modifications and maintains compliance with the Heavy Industrial development standards.

**Section 5:** With shared parking facilities with neighboring tenants, the project complies with the parking requirements for the religious facility. Shared parking can be achieved with the 83 on-site parking spaces that are within 300-feet. Shared parking for the religious facility will be allowed after the hours of 6:00PM and all day on weekends and therefore will not conflict with the principal operating hours of the adjacent businesses. As condition, the applicant shall record parking agreement the County Clerk.

**Section 6:** As conditioned, the project will not have a negative impact on public health, safety, and general welfare. Based schedule of activities, the peak parking demand occurs on Thursday evenings and weekends and will not conflict with the surrounding businesses that typically operate between the 8:00 AM to 6:00 PM.

**Section 7:** The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit Amendment No. UA11-0012, Good Shepherd Community Church, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on April 11, 2012.

  
Chair

**TO WIT:**

**I HEREBY CERTIFY** that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on April 11, 2012, and carried by the following roll call vote:

**COMMISSIONER                      AYES    NOES    ABSENT    ABSTAIN**

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella			X	
John Luk	X			
Rajeev Madnawat	X			
Sudhir Mandal	X			
Zeya Mohsin			X	
Gurdev Sandhu	X			
Steve Tao	X			

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Garry Barbadillo			X	

EXHIBIT 1

**CONDITIONS OF APPROVAL**

**Conditional Use Permit Amendment No. UA11-0012, Good Shepherd Community Church  
467 Sinclair Frontage Rd.**

**Planning Division**

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on April 11, 2012, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance.

2. Conditional Use Permit Amendment No. UA11-0012 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued and a foundation is completed.

Pursuant to Section 64.06, the owner or designee shall have the right to request an extension of Conditional Use Permit Amendment No. UA11-0012 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein.

3. The Owner or designee shall maintain permission for the 10 parking spaces otherwise assigned to other condominium owners in the vicinity, which shall be no more than 300 feet from the subject site's property, by means of parking agreement(s) executed by both the Owner or designee and other property owner(s) which are approved by the City Attorney's office. This agreement shall be recorded with the County of Santa Clara.
  - a. The agreements shall specify the Church and its guests and invitees are entitled to use said assigned spaces during the hours of operation for the Good Shepherd Community Church facility. If the applicant loses permission to use some or all said parking spaces, and is unable within 30 days thereafter, to secure permission to use a like number of parking spaces within 300 feet of its property by means of a parking agreement of the type described above, this Conditional Use Permit shall be considered in violation of this approval and subject to Section 10.63.06, Revocation, Suspension, Modification, of the Milpitas Zoning Ordinance.
4. The Owner or designee shall maintain a minimum of 100 fixed seats in the sanctuary hall as shown on approved plans dated April 11, 2012. Details of seating fixtures shall be provided to Planning Division prior to any building permit issuance.

5. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations, and in conformance with the approved plans.
6. If at the time of application for permit or certificate of occupancy there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full.
7. Any occupancy of the tenant space shall not occur until all conditions of approval have been satisfied and verified by the City.
8. Prior to demolition permit issuance, the Applicant, or Contracted Designee, shall submit Part I of a Recycling Report on business letterhead to the Building Division, for forwarding to the Engineering Section. This initial report shall be approved by the City's Utility Engineering/Solid Waste Section prior to demolition permit issuance. The report shall describe these resource recovery activities:
  - A. What materials will be salvaged.
  - B. How materials will be processed during demolition.
  - C. Intended locations or businesses for reuse or recycling.
  - D. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.Applicant/Contractor shall make every effort to salvage materials for reuse and recycling.
9. Prior to building permit issuance, applicant shall submit Part II of the Recycling Report to the Building Division, for forwarding to the City's Utility Engineering/Solid Waste Section, that confirms items 1 – 4 of the Recycling Report, especially materials generated and actual quantities of recycled materials. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Division for approval by the Utility Engineering/Solid Waste Section prior to inspection by the Building Division.
10. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, applicant / property owner shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, applicant / property owner shall subscribe to and pay for solid waste services rendered. Prior to occupancy permit issuance (start of operation), the applicant shall submit evidence to the City that a minimum level of refuse service has been secured using a Service Agreement with Allied Waste Services (formally BFI) for commercial services to maintain an adequate level of service for trash and recycling collection. After the applicant has started its business, the applicant shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234.